

347—120.9(88,89B) Conduct of inspections.

120.9(1) *Inspection of records.* In addition to rule 347—3.5(88), compliance safety and health officers shall have the authority to examine material safety data sheets, hazard communication program, hazard chemical lists submitted to the fire department, and information in sufficient specificity furnished to fire departments. However, noncompliance with the provisions of 347—Chapter 130, community right to know, and 347—Chapter 140, emergency response right to know, of the Act, shall not be grounds for the compliance safety and health officer to issue an IOSH citation.

120.9(2) *Trade secrets, exemption and procedure.* When at the commencement of an inspection, the employer identifies a hazardous chemical or mixture as a trade secret, the compliance safety and health officer shall label all information obtained in such areas which could reveal the trade secret, including all negatives and prints or photographs, and specific chemical identity as “confidential-trade/government secrets” and shall not disclose the chemical identity except in accordance with the provisions of Iowa Code section 88.12. The employer shall have the burden of proof to demonstrate to the compliance safety and health officer that the hazardous chemical can be qualified as a trade secret and meet all criteria for trade secrets set forth in rule 347—110.6(88,89B).

120.9(3) *Confidentiality preserved.* In the event that a compliance safety and health officer finds that a hazardous chemical or mixture does not qualify as a trade secret, the officer shall preserve the confidentiality of its identity until the employer has exhausted the administrative remedies and has either failed to file a timely appeal or has failed to prevail upon a trade secret determination as a final agency action under Iowa Code chapter 17A.